

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

In re: GUIDANT CORP. IMPLANTABLE
DEFIBRILLATORS PRODUCTS
LIABILITY LITIGATION

MDL No. 05-1708 (DWF/AJB)

This Document Relates to ALL ACTIONS

ORDER

This matter concerns a dispute regarding the inclusion of Section III in Guidant's Case Profile Form, also referred to as Defendant's Fact Sheet. The fact sheet seeks information concerning Guidant's contacts with each plaintiff's implanting healthcare providers.

The matter was first presented to the Court in the parties' May 30, 2006 Statement of Disputed Issues for Case Management Conference. On July 26, 2006, Guidant filed a supplemental letter brief, and on July 28, 2006, Plaintiffs filed a response to Guidant's letter.

In Section III, Plaintiffs seek information about whether Guidant maintains a database with respect to a plaintiff's implanting physicians' prescribing practices and if so, Plaintiffs seek any information Guidant has collected concerning a plaintiff's implanting physicians. Specifically, Section III asks:

Do you have or have you had access to any database or any information which tacks any of Plaintiff's Implanting Providers proscribing practices or implanting practices with respect to Guidant defibrillators and/or pacemakers, the number of defibrillators and/or pacemakers, the number of replacements, and the timeframe when these products where prescribed

and/or implanted? . . . If your answer is “yes,” please produce or identify the database and document which captures that information.

Plaintiffs assert that this information is relevant to the issue of any targeted sales of the devices to the implanting physicians, to Guidant’s assertion of a learned intermediary defense, and to the consumer fraud claims. Moreover, Plaintiffs contend that the information sought is also reasonably related to admissible evidence concerning the implanting physicians’ knowledge of the devices and to the physicians’ potential biases as witnesses. Guidant objects to this request, asserting that it “does not have access to any databases tracking the majority of the information sought” and to the extent that it has such records, they are of no relevance to the litigation. Any production of such records, Guidant contends, would be unduly burdensome and prejudicial.

Based upon the presentations of counsel, including the letters submitted by the parties, the Court concludes that the information sought in Section III of the Defendant’s Fact Sheet is both relevant to claims and/or defenses in this matter and is reasonably calculated to lead to the discovery of admissible evidence. Therefore, the Court hereby orders that the Defendant’s Fact Sheet, including Section III, as reflected in Exhibit B to the parties’ May 30, 2006 Statement of Disputed Issues for Case Management Conference, be used in this matter.

IT IS SO ORDERED.

Dated: August 1, 2006

s/Donovan W. Frank
DONOVAN W. FRANK
Judge of United States District Court